IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

DISTRICT:

CIVIL APPLICATION NO. 2064 OF 2005

IN

SECOND APPEAL NO. 554 OF 2001

Office Notes,Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mr.Prathmesh i/by Mr.A.V.Anturkar for the Applicants.

Mr. M.R.Suryawanshi for the Respondents.

CORAM: S.B.DESHMUKH, J.

DATE : 5TH OCTOBER, 2006

P.C.:

Heard learned Counsel for the parties.

2. By this application, the applicants / original plaintiffs are seeking amendment. In fact, the amendment is being sought in prayer clause of the plaint itself.

3. Learned Counsel for the respondents, has pointed out, the

earlier prayer made in paragraph 9(a) of the plaint. According to him the amendment is nothing but repetition of the earlier prayer made. The second objection of the respondent is regarding belated attempt for amending the pleading. According to him, this application is filed after about 16 years and therefore may not be considered favourably.

4. I have considered the submissions, of the learned Counsel, on behalf of the parties. I have also perused the plaint along with the prayers earlier made and amendment sought by the applicants / original plaintiffs. The amendment sought, is to be considered within the para meters of order 6 rule 17 of the Code of Civil Procedure. In case, the amendment is taking away the right accrued in favour of the parties, in such circumstances, the amendment can be seriously considered for rejection. The objection on behalf of the respondents that amendment is sought after about 16

years and is a repetition of prayer, is not sufficient for rejecting the application. It appears that the applicants / plaintiffs are elaborating / explaining the relief which is already sought in the suit. By this amendment, nature of the suit will not be changed, nor cause of action. By this amendment the accrued right, if any, in favour of the respondents would not be taken away. In this view of the matter, I am inclined to allow this application in favour of the applicants.

5. In the result, the amendment sought is permitted and to be carried out within a period of two weeks from today. Civil Application, accordingly, is allowed and disposed of.

Sd/-

(S.B.DESHMUKH, J.)